HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE P. LAKSHMANA REDDY

WRIT PETITION No. 4510 of 2006

Between:

M/s Venkateswara Engineering Works,
Represented by its Proprietor B.V.V Rama Rao,
Visakhapatnam …Petitioner

AND

State Bank of Hyderabad,
Kancharapalem Branch,
Visakhapatnam …Respondent

Counsel for the petitioner: Sri Sai Gangadhar Chamarty

Counsel for the Respondent: Sri A.Krishnam Raju

Dated: April 10, 2006

ORDER:

Per G.S.Singhvi, C.J.

In this petition, the petitioner has questioned the auction of property bearing Door No. 37-3-5, Old ITI Junction, Kancharapalem, Visakhapatnam.

The petitioner had taken loan from State Bank of Hyderabad (for short 'the Bank') under Cash Credit Scheme but failed to repay the amount in accordance with the conditions of grant. This compelled the Bank to initiate proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). Notice under Section 13 (2) of the Act was issued on 22-12-2003 and the petitioner was called upon to pay a sum of

Rs.8,81,667-97 ps within sixty days. After two months, notice under Section 13 (4) of the Act was issued. Notwithstanding this, the petitioner failed to repay the amount demanded by the Bank, though it did pay small amounts on different dates.

The petitioner's failure to repay the entire amount due prompted the Bank to issue auction notice dated 10-2-2006. At that stage, the petitioner instituted this petition.

When the writ petition was taken up for admission hearing, learned counsel for the petitioners made a statement that his client is ready and willing to pay the entire balance amount, but requested that some time may be allowed to it. After taking cognizance of the statement of the learned counsel, the court passed interim order dated 8-3-2006 and stayed auction proceedings subject to the following conditions:

"1. Within 15 days from today, the petitioner shall

deposit Rs.2 Lakhs with the Bank.

2. The remaining balance amount shall be paid in two monthly equated instalments.

Learned counsel for the petitioner says that his client has deposited Rs.2 Lakhs. He also reiterated the undertaking that his client shall pay the balance amount in two equated monthly instalments.

Learned counsel for the Bank says that if the petitioner deposits the balance amount in accordance with the undertaking given by his counsel, then the Bank will not proceed with the auction of the property, provided that he also pays interest on the balance amount.

In view of the statement made by the learned counsel, the writ petition is disposed of with the following directions.

(1) The auction proceedings initiated by the Bank shall remain in abeyance for a period of three months from today;

(2) The petitioner shall pay the balance amount with interest in two equated monthly instalments;

(3) If the petitioner deposits the balance amount with the Bank then the latter shall release him of all the obligations incurred at the time of grant of loan;

(4) If the petitioner fails to pay the balance amount in terms of para (2) above, then the Bank shall be entitled to proceed with the auction of the property. The Bank shall also be entitled to take other legally permissible measures for recovery of the balance amount, if any, which may remain due after auction of the property.

(5) In the event of auction of the property, the petitioner shall not be entitled to challenge the same by filing fresh petition before this Court or an application before the Debts Recovery Tribunal or suit in the Civil Court.

G.S.SINGHVI, C.J.

P.LAKSHMANA REDDY, J

GRR/svs